

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

PATRICK DONNELLY, individually and on
behalf of a class of similarly situated persons and
entities,

Plaintiff,

vs.

NEW JERSEY RE-INSURANCE COMPANY;
ASSURANT INSURANCE GROUP (d/b/a
American Bankers Insurance Company of Florida);
FIDELITY NATIONAL PROPERTY &
CASUALTY INSURANCE COMPANY (also
d/b/a Fidelity National Property & Casualty
Insurance Company); HARTFORD FIRE
INSURANCE COMPANY; LIBERTY MUTUAL
FIRE INSURANCE COMPANY; SELECTIVE
INSURANCE COMPANY OF AMERICA;
PHILADELPHIA CONTRIBUTIONSHIP
INSURANCE COMPANY; STATE FARM FIRE
AND CASUALTY COMPANY; TRAVELERS
INSURANCE COMPANIES (also d/b/a Standard
Fire Insurance Company); and ABC INSURANCE
COMPANIES 1-10 (being fictitious names),

Defendants.

Civil Action No.
2:12-cv-07629-ES-SCM

Returnable: April 15, 2013

**NOTICE OF NON-INSURING DEFENDANTS' MOTION TO DISMISS COMPLAINT
FOR LACK OF SUBJECT MATTER JURISDICTION PURSUANT TO FED. R. CIV. P.
12(b)(1), OR IN THE ALTERNATIVE, FOR FAILURE TO STATE A CLAIM UPON
WHICH RELIEF CAN BE GRANTED PURSUANT TO FED. R. CIV. P. 12(b)(6)**

PLEASE TAKE NOTICE that Assurant Insurance Group (d/b/a American Bankers
Insurance Company of Florida), Fidelity National Property & Casualty Insurance Company,
Hartford Fire Insurance Company, Liberty Mutual Fire Insurance Company, Philadelphia
Contributionship Insurance Company, Selective Insurance Company of America, State Farm Fire

and Casualty Company, and The Standard Fire Insurance Company (incorrectly identified as Travelers Insurance Companies in the Complaint) (hereinafter “Non-Insuring Defendants”) will move before the Honorable Esther Salas, U.S.D.J on April 15, 2013 for an Order granting the Non-Insuring Defendants’ Motion to Dismiss Complaint for Lack of Subject Matter Jurisdiction Pursuant to Fed. R. Civ. P. 12(b)(1), or in the Alternative, for Failure to State a Claim Upon Which Relief Can Be Granted Pursuant to Fed. R. Civ. P. 12(b)(6).

In support of the Non-Insuring Defendants’ motion, they rely on the attached Brief.

Dated: March 22, 2013

Respectfully submitted,

/s/ Patrick W. Brophy
McMahon, Martine & Gallagher, Esq.
55 Washington Street, Suite 720
Brooklyn, NY 11201
Phone: (212) 747-1230
Facsimile: (212) 747-1239
E-mail: pbrophy@mmglawyers.com

/s/ David P. Langlois
David P. Langlois
Sutherland Asbill & Brennan LLP
The Grace Building, 40th Floor
1114 Avenue of the Americas
New York, NY 10036
Phone: (212) 389-5007
Facsimile: (212) 389-5099
E-mail: david.langlois@sutherland.com

Attorney for Defendants Assurant Insurance Group (d/b/a American Bankers Insurance Company of Florida), Fidelity National Property & Casualty Insurance Company, Hartford Fire Insurance Company, Liberty Mutual Fire Insurance Company, Philadelphia Contributionship Insurance Company, and Selective Insurance Company of America

Kim V. Marrkand (admission *pro hac vice* pending)
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111
Phone: (617) 348-1807
Facsimile: (617) 542-2241
E-mail: KVMarrkand@mintz.com

Attorney for Liberty Mutual Fire Insurance Company

OF COUNSEL:
Steuart H. Thomsen (admitted *pro hac vice*)
G. Brendan Ballard (admitted *pro hac vice*)
SUTHERLAND ASBILL & BRENNAN LLP
700 Sixth Street, NW, Suite 700
Washington, DC 20001-3980
Phone: (202) 383-0100
Facsimile: (202) 637-3593
E-mail: steuart.thomsen@sutherland.com
brendan.ballard@sutherland.com

Attorneys for Defendant State Farm Fire and Casualty Company

/s/ Samuel J. Arena, Jr.

Samuel J. Arena, Jr.

Stradley Ronon Stevens & Young, LLP

2005 Market Street, Suite 2600

Philadelphia, PA 19103-7018

Phone: (215) 564-8093

Facsimile: (215) 564-8120

E-mail: sarena@stradley.com

*Attorney for Defendant The Standard Fire
Insurance Company (incorrectly identified as
Travelers Insurance Companies in the
Complaint)*

CERTIFICATE OF SERVICE

I hereby certify that, on March 22, 2013, the foregoing NOTICE OF MOTION was served on all counsel of record via the CM/ECF system.

/s/ David P. Langlois
David P. Langlois